



MEMORANDUM

To: PLANNING COMMISSION

Date: June 12, 2007

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: Subdivision Application, SD-07-03: Cochrane - DiNapoli/Browman

REQUEST

The applicant is requesting approval of a tentative map to reconfigure and merge existing lots of record approved as part of a sub-regional commercial shopping center. The proposed tentative map would reduce the number of recorded lots from 38 parcels to 36 parcels (including two detention basins).

RECOMMENDATION

Application, SD-07-03: Adopt resolution approving subdivision application

Processing Deadline: October 18, 2007

BACKGROUND

In November 2005, the City Council approved a 657,250-sf sub-regional commercial shopping center at the northeast quadrant of Cochrane Road and Highway 101. The shopping center site is approximately 66.49 acres in size and zoned Planned Unit Development. As part of the project, the Council approved subdivision of the site into 38 parcels. A separate lot of record was created for each detention basin, building, and major tenant space located within a single building. A copy of the approved Tentative Map is attached for the Commission's reference.

PROJECT DESCRIPTION

The applicant proposes to reconfigure and merge existing lots of record on the 66.49-acre site. The proposed tentative map would reduce the number of lots from 38 parcels to 36 parcels, including the two detention basins.

CASE ANALYSIS

When the original Tentative Map was prepared, property lines were created based on a site plan that identified building footprints for shell buildings. Since that time, the developers have secured tenants and have designed the buildings to suit each tenant's needs. Revisions to the building footprints and tenant spaces, however, have subsequently created the need to amend the subdivision map since property lines were recorded between each building and individual tenant spaces.

The two major changes differences between the approved Tentative Map and the proposed revised map include the following: 1) Shop A and Pad 1 were combined into one building (Shop A); and 2) Majors 3 and 4 were merged into one lot. Lot line adjustments are also proposed, primarily within the Phase 1 portion of the project (area west of the DePaul Drive extension). The Phase 2 portion of the project is largely consistent with the approved map. Staff recommends one change to the subdivision map. Public Works has required the removal of Parcel 34 (Roadway), as the street right-of-way along Cochrane Road and Mission View Drive has already been dedicated to the City and cannot be considered a parcel for this subdivision. With this change and incorporation of the conditions listed in the approval resolution, Staff recommends approval of the tentative map.

Future amendments to the subdivision map will be completed via lot line adjustments and lot mergers which require administrative approval.

RECOMMENDATION

Staff recommends approval of the subdivision application, subject to the findings and conditions of the attached resolution.

Attachments:

1. Approval Resolution
2. Vicinity Map
3. Approved Tentative Map

RESOLUTION NO. 07-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A 35-PARCEL TENTATIVE MAP (INCLUDING TWO DETENTION BASIN PARCELS) TO RECONFIGURE AND MERGE 38 EXISTING LOTS OF RECORD ON A 66.49-ACRE SITE LOCATED AT THE NORTHEAST QUADRANT OF COCHRANE RD AND HWY 101 IN A PLANNED UNIT DEVELOPMENT ZONING DISTRICT (APNs 728-37-001, -002, -004, -005, &-007)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of June 12, 2007, at which time the Planning Commission approved subdivision application, SD-07-03: Cochrane – DiNapoli/Browman; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. An Environmental Impact Report has been prepared for this project as part of the following applications: GPA-04-12, ZA-04-12, SD-05-05, DA-05-11, UP-05-11, and SR-05-12. Mitigation measures and a monitoring program have been adopted for those environmental impacts identified in the report. None of the conditions that would necessitate preparation of a Subsequent or Supplemental EIR have occurred, and the City Council finds that no further CEQA documentation is required and the existing EIR adequately addresses the subject project request.

SECTION 3. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 4. The approved project shall be subject to the conditions as identified in the set of conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

PASSED AND ADOPTED THIS 12TH DAY OF JUNE 2007, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

A F F I D A V I T

We, **MORGAN HILL RETAIL VENTURE, LP**, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

MORGAN HILL RETAIL VENTURE, LP,
a California limited partnership

By: Morgan Hill DBP L.P.,
a California limited partnership
Its: General Partner

By: JP DiNapoli Companies Inc.,
a California corporation,
Its: General Partner

By: _____
John B. DiNapoli
Its: Vice President

Date: _____

By: Browman Development Company,
Inc., a California corporation,
Its: General Partner

By: _____
Darryl Browman
Its: President

Date: _____

EXHIBIT A
CONDITIONS OF APPROVAL

1. The Tentative Subdivision Map approval granted under this Resolution shall remain in effect for two years to June 12, 2009. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Planning Commission prior to the expiration date (PLNG).
2. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this subdivision application. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions (PLNG).
3. Submit two (2) signed copies of Approval Resolution No. 07-__ to the Planning Division prior to issuance of building permits (PLNG).
4. The applicants shall fulfill the conditions of the original subdivision application approval (SD-05-05) that have not yet been completed. In addition, the applicants shall also comply with the conditions of approval listed below (PW).
5. The applicant shall have a Final Map prepared by a registered engineer or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG&E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be as required by the Public Works Department (PW).
6. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&Rs and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved (PW).
7. **IMPACT FEE INCREASE** – The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established ten specific categories of impact fees to finance the cost of improvements required by new development. The City Council has chosen to implement certain fees, withhold implementation of certain fees, and stage the implementation of certain fees. City Code Chapter 3.56.050 provides for automatic annual (July 1) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. Those fees which a developer elects to defer shall be subject to the fees in effect at the time of development of a lot (issuance of building permit). The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours (PW).

EXHIBIT A
CONDITIONS OF APPROVAL
(continued)

8. Street right-of-way along Cochrane and Mission View has been dedicated to the City and cannot be considered parcels of this subdivision. Remove Parcel 34 from the Tentative Map. Therefore, per this proposed tentative map, the total number lots for the purposes of sales, lease, or financing is 33 (PW).
9. The City fees for this subdivision have been calculated on the current Parcel Map of record, Book 805 of Maps pages 21 thru 28 (805 PM 21-28), for 34 parcels (see schedule titled Area Calculations Dinapoli.xls on file at the Public Works Department). Each parcel is required to pay City fees based on its current square footage prior to issuance of a building permit. This Tentative Map proposes to change all prior parcel areas. Therefore once the Tentative Map is recorded as a Parcel Map, City fees shall be recalculated per the new parcel areas and City fees which have been paid per Parcel Map 805 PM 21-28 shall be re-assessed additional fees or credits based on the parcels increase or decrease in area respectively (PW).
10. City fees for future lot line adjustments following the recordation of this tentative map as a Parcel Map shall be addressed in the same manner as item 2 (PW).
11. For current and future Building Permit approvals for Morgan Hill Retail projects (i.e. individual Building Permits) to meet the NPDES General Permit/SWPPP requirements the following need to be provided to Public Works (regardless of whether Buildings Permits are issued to Morgan Hill Ventures LP or issued under a separate permit):
 - a. Morgan Hill Ventures LP shall provide Public Works with a copy of the SWPPP Notification letter issued to the personnel in charge of the Building Permit under review.
 - b. The following National Pollution Discharge Elimination System (NPDES) General Permit and Storm Water Pollution Prevention Plan (SWPPP) Manual signature block will be provided and completed on the plans of the respective Building Permit:
 - i. NPDES General Permit Number: Waste Discharge Identification (WDID) # 3-43C340455
 - ii. Building Permit Number: 200x-xxxx
 - iii. Under above permits, the authorized signature below acknowledges the following:
 - 1) The project's representative/owner has been provided with a SWPPP Notification letter sent by Morgan Hill Ventures LP.
 - 2) The project's representative/owner has been provided copies or access to the NPDES General Permit and the SWPPP Manual for review.
 - 3) For the project, appropriate personnel has been assigned with the task of insuring that construction activity with this project shall comply with Morgan Hill Ventures' NPDES General Permit and Storm Water Pollution Prevention Plan (SWPPP) Manual.
 - 4) The project shall implement applicable Best Management Practices (BMPs) such as BUT NOT LIMITED to Non-Stormwater (NS) BMPs, Waste-Management (WS) BMPs, and Sediment-Control BMPs, per Attachment C of the SWPPP Manual.
 - 5) If required by Public Works, a project specific Pollution Control Drawing for Erosion and Sediment may be required for these plans.

EXHIBIT A
CONDITIONS OF APPROVAL
(continued)

- 6) By signing below, the undersigned declares they have read and understand the statements listed above and accepts any and all liabilities associated for non-compliance.

Authorized signature:

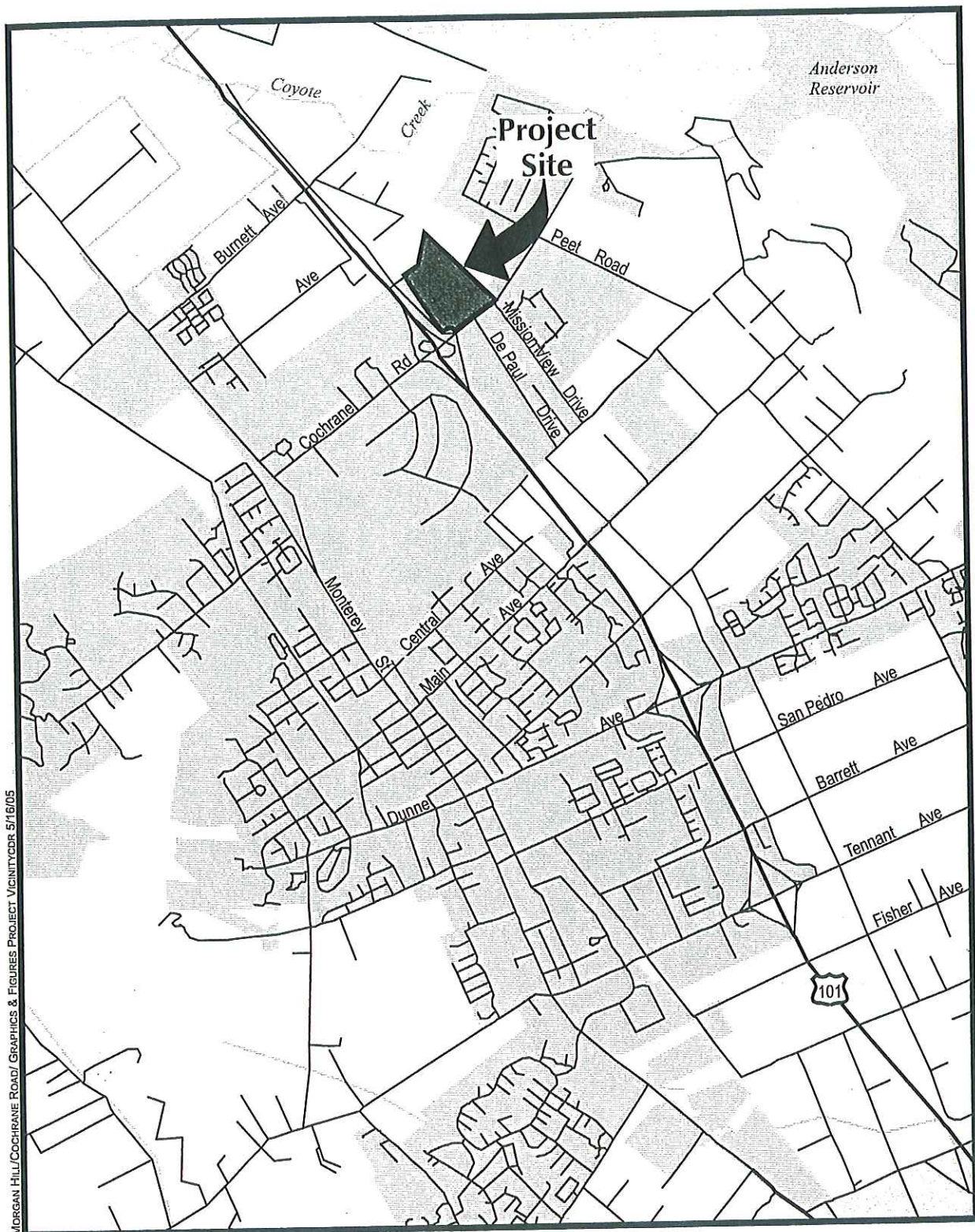
Print Name:

Date:

Company:

Title:

12. All pertinent easements (public or private) shall be delineated on the Parcel Map (PW).
13. The retail center's easement and maintenance agreement shall be updated to incorporate any necessary changes associated with this tentative map and its subsequent recordation as a Parcel Map (PW).



MORGAN HILL/COCHRANE ROAD/ GRAPHICS & FIGURES PROJECT VICINITYCDR 5/16/05

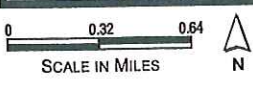


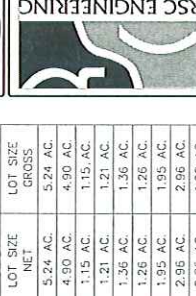
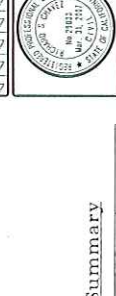
FIGURE 2-2
PROJECT VICINITY

(E) ZONED: SF RESIDENTIAL
PROPOSED ROAD



PLANNING DEPT
NOV 04 2005
CITY OF MORGAN HILL

10-24-05 CHANGES TO APPROXIMATE/ESTIMATE PER CITY COMMENTS
10-23-05 CHANGES TO APPROXIMATE/ESTIMATE PER CITY COMMENTS
10-17-05 CHANGES TO APPROXIMATE/ESTIMATE PER CITY COMMENTS



PROJECT NO. 015-001
DRAWN BY: RSC ENR
CHECKED BY: RSC ENR
DESIGNED BY: RSC ENR

VESTING TENTATIVE MAP-
PHASED PARCEL MAPS WILL BE RECORDED
MORGAN HILL RETAIL
COCHRAN ROAD & HIGHWAY 101

SHEET TITLE
TM
SHEET NO.
1
OF 1

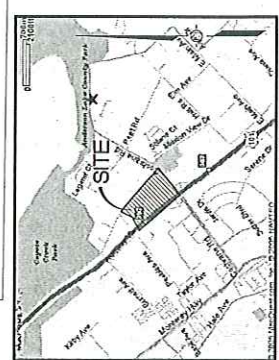
DATE: 05-16-05

Land Use Summary

PARCEL NUMBER	PROPOSED USE	LOT SIZE NET	LOT SIZE GROSS
1	MAJOR 1	5.24 AC	5.24 AC
2	MAJOR 2	4.90 AC	4.90 AC
3	MAJOR 3	1.15 AC	1.15 AC
4	MAJOR 4	1.21 AC	1.21 AC
5	MAJOR 5	1.36 AC	1.36 AC
6	MAJOR 6	1.26 AC	1.26 AC
7	MAJOR 7	1.95 AC	1.95 AC
8	MAJOR 8	2.96 AC	2.96 AC
9	SHOPS A	0.85 AC	1.02 AC
10	PAD 1	0.79 AC	0.98 AC
11	SHOPS B	0.92 AC	1.16 AC
12	PAD 2	1.22 AC	1.22 AC
13	PAD 3	0.72 AC	0.72 AC
14	SHOPS C	0.98 AC	0.98 AC
15	SHOPS D	0.64 AC	0.64 AC
16	SHOPS E	0.88 AC	0.88 AC
17	SHOPS F	0.49 AC	0.49 AC
18	MAJOR 9	10.72 AC	11.31 AC
19	SHOPS G	0.68 AC	0.68 AC
20	SHOPS I	0.72 AC	0.72 AC
21	SHOPS J	0.71 AC	0.71 AC
22	PAD 4	0.70 AC	0.70 AC
23	PAD 5	0.62 AC	0.62 AC
24	PAD 6	0.76 AC	0.76 AC
25	PAD 7	0.70 AC	0.70 AC
26	SHOPS K	1.40 AC	1.73 AC
27	PAD 8	1.19 AC	2.01 AC
28	MAJOR 10	1.58 AC	1.81 AC
29	MAJOR 11	0.77 AC	0.85 AC
30	SHOPS L	0.64 AC	0.64 AC
31	CINEMA	5.87 AC	6.38 AC
32	SHOPS M	0.64 AC	0.64 AC
33	MAJOR 12	0.78 AC	0.85 AC
34	MAJOR 13	1.64 AC	1.83 AC
35	DRIVEWAY	0.86 AC	0.92 AC
36	SHOPS H	0.98 AC	1.08 AC
A	DETENTION BASIN	2.23 AC	2.49 AC
B	DETENTION BASIN	0.72 AC	0.72 AC
TOTAL		62.43 AC	66.27 AC

- Notes:
1. Refer to final parcel map for accurate lot dimensions and configuration.
 2. Any existing septic tanks and/or wells will be abandoned pursuant to the environmental mitigation measures.
 3. Phased Parcel Maps will be recorded.
 4. Legal descriptions from First American Title Insurance Company Preliminary Grading and Utility plans dated 3/1/05 and dated 4/1/05.
 5. April 25, 2005.
 6. Reciprocal ingress-egress easements will be located along all common driveways, as created by the Covenants, Conditions, Restrictions and Easements Document.
 7. Cross access easements will be provided throughout the project site as created by the Covenants, Conditions, Restrictions and Easements Document.
 8. Parcels A & B shall be used for no purpose other than for onsite storm drainage facilities.

Existing Property Line
Existing Easement
Proposed Property Line
Proposed Easement
Proposed Sewer Easement
10' PUE to be Abandoned
Proposed Water Easement



VICINITY MAP

APPROVED TENTATIVE MAP